

Department of Public Health  
and Human Services

Section:  
RESOURCES

MEDICAL ASSISTANCE

Subject:  
Conditional Assistance

**Supersedes:** MA 402-4 (01/01/06)

**References:** 42 CFR 435.601, 20 CFR 416.1240-.1245; ARM 37.82.101, .423

GENERAL RULE—Conditional assistance may be available to Medicaid applicants and recipients with non-liquid personally owned (not owned by a corporation or trust, for example) non-liquid resources that exceed the Medicaid resource limit.

Conditional assistance is a contractual agreement by the applicant/recipient to make a bona fide effort to sell excess non-liquid resources for current market value, and to repay Medicaid for benefits paid by Medicaid during the conditional assistance period with the proceeds of the sale of the excess non-liquid resources.



Conditional assistance is not available for exclusion of property of which the Medicaid applicant/recipient is not the direct owner. Conditional assistance cannot be used for trust-owned or corporation-owned property. Conditional assistance would, however, be available for sale of corporate stock.

To be eligible for conditional assistance, an applicant/recipient must:

1. meet all non-financial eligibility criteria:
  - a. age 65 or older, blind or disabled;
  - b. have or apply for a Social Security Number;
  - c. be a U.S. citizen or qualified alien; and
  - d. be a Montana resident;
2. have total countable resources which exceed the ABD (aged/blind/disabled, aka SSI-related) Medicaid resource standard (see MA 400);
3. have countable liquid resources which do not exceed three (3) times the appropriate monthly categorically needy income standard (see MA 001); and

**NOTE:** When applying conditional assistance to a nursing home or waiver case with a community spouse, deduct the spousal resource maintenance allowance first from the community spouse's own assets, then from the joint liquid assets, and finally from the joint non-liquid assets,

up to the total spousal resource maintenance allowance for the couple. Test the remaining liquid assets not allocated to the community spouse to this requirement.

4. agree in writing (Form HCS-97, "Agreement to Sell Property") to:
  - a. sell excess non-liquid resources within the conditional assistance period; and
  - b. use the net proceeds of the sale to refund conditional medical assistance payments.

### **NON-LIQUID PERSONAL RESOURCES**

A non-liquid real or personal resource is property which:

1. is not cash; and
2. cannot be converted to cash within twenty (20) workdays.

Absent evidence to the contrary, assume that the following types of resources are non-liquid personal resources:

1. household goods and personal effects;
2. automobiles, trucks, tractors and other vehicles;
3. machinery and livestock;
4. buildings and land; and
5. non-cash business property.

### **LIQUID RESOURCES**

Cash is a liquid resource. Certain other non-cash resources are also considered liquid. Therefore, absent evidence to the contrary, assume that the following types of resources are liquid:

1. stocks, bonds and mutual fund shares;
2. checking accounts, savings accounts and time deposits;
3. United States savings bonds and Treasury bills, notes and bonds;
4. mortgages and promissory notes; and
5. life insurance.

### **ELIGIBILITY PERIOD**

Conditional assistance may be allowed to eligible individuals for up to six (6) months while attempting to dispose of excess personal property, and up to twelve (12) months while attempting to dispose of excess real property. These periods cannot be extended.

Only one conditional assistance period is allowed on any one property.

All joint owners of a property must sign form HCS-97 in order for any joint owner to be considered for conditional assistance.

### **► RETROACTIVE**

Conditional assistance may be granted for retroactive periods (i.e.,

**CONDITIONAL ASSISTANCE**

months prior the month of the Medicaid application) when the excess non-liquid resources were already listed for sale during the retroactive months.

**NOTE:** The retroactive period is included in the 6- or 12-month conditional assistance period.

Example: An application for Medicaid was submitted March 12. He requests Medicaid for the retroactive period of December through February. The applicant owns a building lot worth \$6,000, which puts him over the resource limit. His liquid assets totaled less than \$1500 in each of these months (December through March). He signs a conditional assistance agreement on April 5. Conditional assistance can be granted from March forward based on the conditional assistance agreement. In addition, if the building lot had been listed for sale continuously since December, retroactive Medicaid could also be considered based on the conditional assistance agreement, and the conditional assistance period would end in November. However, if the applicant did not list the building lot for sale until after he signed the conditional assistance agreement, his conditional assistance period begins in March, and he is ineligible for Medicaid due to excess resources for the retroactive period. The conditional assistance period would end in February.

**REASONABLE EFFORTS TO SELL**

Reasonable efforts to sell resources consist of taking all necessary steps to sell it in the geographic area where the resource is located. Within thirty (30) days of signing a conditional assistance agreement, the applicant must:

1. list the property with an agent; or
2. **all** of the following---begin continuously advertising it in at least one of the appropriate local media, place a "For Sale" sign on the property in clear public view, begin conducting "open houses" or otherwise show the property to interested parties on a continuous basis, AND attempt any other appropriate methods of sale.

**REPAYMENT**

The amount of conditional assistance to be repaid is equal to the lesser of:

1. the balance of the net proceeds (i.e., the current market value less costs of sale and encumbrances) after an amount is deducted to raise the recipient's resources to the resource limit applicable to the program and filing unit size (individual or couple) for the program from which the individual/couple is receiving benefits; or

2. the total amount of conditional medical assistance payments made on the individual's (and spouse's, if any) behalf.



To determine the total amount of conditional medical assistance payments made on behalf of the individual (and spouse, if any), include all Medicaid payments that have been made for dates of service within the conditional assistance period, even if Medicaid actually paid the provider after the conditional assistance period ended. Do not include amounts for services received prior to the conditional assistance period but billed and/or paid by Medicaid during the conditional assistance.

Medicaid benefits received during the conditional assistance period must be repaid when the property is sold, regardless of whether the property is sold during the conditional assistance period or after the conditional assistance period has ended. This includes situations where the individual is no longer receiving Medicaid benefits at the time the property is sold.

If the recipient does not repay conditional assistance with the proceeds of the sale as agreed, an overpayment will be established.

**The eligibility case manager should not provide the recipient or representative with advice regarding what portion of the proceeds they may be allowed to retain, or what other bills may be paid with the proceeds when/if property under a conditional assistance agreement is sold. These questions should be referred to Lana Haynes at the TPL Unit.**

**PROPERTY NOT  
SOLD DURING  
CONDITIONAL  
ASSISTANCE  
PERIOD**

If property under a conditional assistance agreement is not sold during the conditional assistance period, the property will be considered an inaccessible resource IF reasonable efforts to sell the property continue to be made on a continuous basis after the end of the conditional assistance period. The property will again be considered a countable resource if continuous reasonable efforts to sell requirements are no longer met.

**MEDICAID LIENS**

If both conditional assistance and a Medicaid lien apply to the same property, the higher of the two obligations will be due to the Medicaid program. Normally, the Medicaid lien will be the higher of the two obligations, and will include the conditional assistance period.

**TRACKING**

It is the responsibility of the OPA to track the sale of the property and to pursue the recipient for repayment when the sale is completed. This includes sales that take place after the conditional assistance period has ended. However, if a valid, COLLECTIBLE Medicaid lien exists, the lien will be collected according to Lien & Estate Recovery procedures. The

OPA must verify with the TPL Unit that a valid, collectible Medicaid lien exists prior to ending OPA tracking of the sale of the property.

## PROCEDURE:

### Responsibility

### Action

Applicant/  
Representative  
Eligibility Case  
Manager

1. Complete an accepted application for Medicaid. Provide required verification.
2. Determine if applicant would be eligible for Medicaid if non-liquid real or personal property were not considered.



3. Determine if applicant's liquid resources are equal to or less than three times the monthly SSI Standard Payment Amount (see MA 011).
4. If answer to both #2 and #3 are yes, offer conditional assistance to applicant. (If answer to both #2 and #3 are no, deny application.)

Applicant/  
Representative

5. Complete form EA-97, ensuring signatures of all owners of the property, and return form to OPA.

Eligibility Case  
Manager

6. Retain white and yellow copies of EA-97 in case file; send photo copy to Lana Haynes in the TPL Unit; return pink copy to applicant.

Recipient/  
Representative

7. Within 30 days, list property for sale at no more than fair market value; maintain reasonable efforts to sell through Medicaid eligibility. Provide proof of reasonable efforts to sell to OPA.
8. Report sale/impending sale of property to OPA within normal change reporting parameters.

Eligibility Case  
Manager

9. When sale is reported, contact Lana Haynes at TPL Unit via e-mail. Provide her with case number, client name, property description (to allow matching to conditional assistance agreement, if more than one piece of property or conditional assistance agreement is connected to the recipient), and the period of conditional assistance to be repaid.

TPL Unit

10. Notify eligibility case manager of any enforceable Medicaid liens against the property and the total amount of Medicaid payments made for services received during the conditional assistance period.
11. If enforceable Medicaid lien exists, collect on the Medicaid lien as repayment of conditional assistance period and any other periods of Medicaid eligibility.

Eligibility Case

12. If no enforceable Medicaid lien exists, notify the

Manager	recipient/representative of the amount to be repaid to Medicaid.
Recipient/ Representative	13. Provide a payment equal to the proceeds of the sale or the total amount of Medicaid payments to DPHHS Fiscal.
Eligibility Case	14. If recipient/representative has diverted proceeds of the sale to other uses, or has otherwise failed to repay conditional assistance, establish Medicaid overissuance claim.

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Example of Completed HCS-97

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